

JOURNAL OF THE HOUSE

Second Regular Session, 93rd GENERAL ASSEMBLY

TWELFTH DAY, WEDNESDAY, JANUARY 25, 2006

The House met pursuant to adjournment.

Speaker Jetton in the Chair.

Prayer by Reverend James Earl Jackson.

Heavenly Father, though many may say You have forsaken us, we speak of Your righteousness, which reaches to the heavens. You O God, are the strength of our heart and our portion forever. Our hope is in You. Your nearness is our benefit and You are our refuge.

Thank You for Your empowering hand as we conduct the business of this day. May we pause periodically, throughout our day, to reflect on what is important: Our faith, our families, integrity, commitment of purpose, strength of character and servant leadership.

You have instructed us that if we lack wisdom to ask of You and You will give it to us generously and without criticism. So we ask that we may receive.

We give thanks to You for Your mercy and grace: bringing us safely to and from our place of residence. Thank You for Your watchful eye over our spouses, children, parents; all of our loved ones as they travel conducting their daily activities.

Now may the grace of our Lord rest and abide with us all.

For it is in the name of Your Son we pray. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Alayna Nicole Brown, Caleb Parker Brown, Amber Gonzalez and Lyndsey LaBrier.

The Journal of the eleventh day was approved as printed.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 251	-	Representative Deeken
House Resolution No. 252	-	Representative Cooper (158)
House Resolution No. 253	-	Representative Deeken
House Resolution No. 254	-	Representative Bean
House Resolution No. 255	-	Representative Kraus
House Resolution No. 256	-	Representative Cooper (158)

House Resolution No. 257

and

House Resolution No. 258 - Representative Dougherty

House Resolution No. 259 - Representative Pratt

House Resolution No. 260

through

House Resolution No. 265 - Representative Lipke

SECOND READING OF HOUSE BILLS

HB 1492 through **HB 1513** were read the second time.

SECOND READING OF SENATE BILL

SCS SB 578 was read the second time.

MOTION

Representative Dempsey moved that Rule 113 be suspended.

Which motion was adopted by the following vote:

AYES: 153

Aull	Avery	Baker 25	Baker 123	Bearden
Behnen	Bivins	Bland	Bogetto	Bowman
Boykins	Bringer	Brooks	Brown 30	Brown 50
Bruns	Burnett	Casey	Chinn	Chappelle-Nadal
Cooper 120	Cooper 155	Cooper 158	Corcoran	Cunningham 145
Cunningham 86	Curls	Darrough	Daus	Davis
Day	Deeken	Dempsey	Denison	Dethrow
Dixon	Donnelly	Dougherty	Dusenberg	El-Amin
Emery	Ervin	Faith	Fares	Fisher
Flook	Franz	Fraser	George	Guest
Harris 23	Harris 110	Haywood	Henke	Hoskins
Hubbard	Hughes	Hunter	Icet	Jackson
Johnson 47	Johnson 61	Johnson 90	Jolly	Jones
Kelly	Kingery	Kratky	Kraus	Kuessner
Lager	Lampe	Lembke	LeVota	Lipke
Loehner	Lowe 44	Marsh	May	McGhee
Meadows	Meiners	Moore	Munzlinger	Muschany
Myers	Nance	Nieves	Nolte	Oxford
Page	Parson	Pearce	Phillips	Pollock
Portwood	Pratt	Quinn	Rector	Richard
Roark	Robb	Robinson	Roorda	Rucker
Ruestman	Rupp	Salva	Sater	Schaaf
Schad	Schlottach	Schneider	Schoemehl	Self
Shoemyer	Silvey	Skaggs	Smith 14	Smith 118
Smith 150	Spreng	Stevenson	St. Onge	Storch
Sutherland	Swinger	Threlkeld	Tilley	Viebrock
Villa	Vogt	Wagner	Wallace	Walsh
Walton	Wasson	Wells	Weter	Whorton
Wildberger	Wilson 119	Wilson 130	Witte	Wood

Wright 137	Wright 159	Wright-Jones	Yaeger	Yates
Young	Zweifel	Mr Speaker		

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 007

Bean	Black	Hobbs	Liese	Low 39
Parker	Sander			

VACANCIES: 003

ESCORT COMMITTEES

The Speaker appointed the following committee to escort Lieutenant Governor Peter Kinder and members of the Senate to the dais: Representatives Cunningham (86), Schneider, Smith (14), Lipke, Pollock, Schlottach, Skaggs, Low (39), Storch and Hughes.

The Speaker appointed the following committee to escort the Honorable Michael A. Wolff, Chief Justice of the Supreme Court of Missouri to the dais: Representatives Davis, Flook, Pratt, Phillips, Ruestman, Stevenson, Oxford, Donnelly, Bland and Burnett.

JOINT SESSION

The hour of the Joint Session having arrived, the Senate in a body was admitted and Lieutenant Governor Kinder, presiding, called the Joint Assembly to order.

The Secretary of the Senate called the roll, which showed a majority of the Senators present:

AYES: 033

Alter	Barnitz	Bartle	Bray	Callahan
Cauthorn	Champion	Clemens	Coleman	Crowell
Days	Dougherty	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer	Nodler
Purgason	Ridgeway	Scott	Shields	Stouffer
Vogel	Wheeler	Wilson		

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 000

VACANCIES: 001

The Chief Clerk of the House called the roll, which showed a majority of the Representatives present:

AYES: 146

Aull	Avery	Baker 25	Baker 123	Bearden
Behnen	Bivins	Black	Bland	Bogetto
Bowman	Boykins	Bringer	Brooks	Brown 30
Brown 50	Bruns	Burnett	Casey	Chinn
Chappelle-Nadal	Cooper 120	Cooper 155	Cooper 158	Corcoran
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Dempsey	Denison
Dethrow	Dixon	Donnelly	Dougherty	Dusenberg
El-Amin	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Fraser	Guest
Harris 110	Haywood	Henke	Hoskins	Hubbard
Hughes	Iceet	Jackson	Johnson 61	Johnson 90
Jolly	Kelly	Kingery	Kratky	Kraus
Kuessner	Lager	Lampe	Lembke	LeVota
Lipke	Loehner	Low 39	Lowe 44	Marsh
May	McGhee	Meadows	Meiners	Munzlinger
Muschany	Myers	Nance	Nieves	Nolte
Oxford	Page	Parker	Parson	Pearce
Phillips	Pollock	Portwood	Pratt	Rector
Roark	Robb	Robinson	Roorda	Rucker
Rupp	Salva	Sander	Sater	Schaaf
Schad	Schlottach	Schneider	Schoemehl	Self
Shoemyer	Silvey	Skaggs	Smith 14	Smith 150
Spreng	Stevenson	St. Onge	Storch	Sutherland
Swinger	Threlkeld	Tilley	Viebrock	Villa
Vogt	Wagner	Wallace	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Young	Zweifel
Mr Speaker				

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 014

Bean	George	Harris 23	Hobbs	Hunter
Johnson 47	Jones	Liese	Moore	Quinn
Richard	Ruestman	Smith 118	Wright 137	

VACANCIES: 003

The Doorkeeper announced the approach of the Honorable Michael A. Wolff, Chief Justice of the Supreme Court of Missouri. Chief Justice Wolff was duly escorted to the House Chamber and to the Speaker's dais where he delivered the following message to the assembly in Joint Session.

STATE OF THE JUDICIARY ADDRESS

by Honorable Michael A. Wolff
to Joint Session of the General Assembly

January 25, 2006

Thank you for that warm welcome. I'm truly grateful to be here. President Kinder, Speaker Jetton, honorable statewide elected officials, colleagues of the Supreme Court, honorable members of the cabinet, honorable members of this General Assembly and fellow citizens:

Thank you for this opportunity to speak with you today. Before I begin, I would like for us to remember Judge Theodore McMillian, who died last week. Judge McMillian was our state's first black circuit judge, state appeals judge and, for the past 27 years, a distinguished member of the United States Court of Appeals in St. Louis. He was a historic figure, an inspiration to those of us who were privileged to know him, and a generous mentor. Through his talents, persistence, civility and sense of humor, Judge McMillian opened doors that had previously been closed to men and women of his race. Let us pause for a moment of silence to honor him. Thank you.

This annual speech reminds us of our shared bond: our common oath to uphold the constitution and laws of this great state and nation. This shared promise binds us to a common goal, expressed by our state's motto: "The welfare of the people shall be the supreme law." We are, as my colleague Judge Mary Russell says, "constitutional partners."

Although members of the executive, legislative and judicial branches may not often think of themselves as partners, I believe the term fits. Each of us has a distinct and equally important role. The basic policies of our state are embodied in the constitution that the people themselves have enacted. In partnership with each other and with the people we serve – who retain for themselves the right to change the Constitution that we uphold and the laws that you write – we forge the body of law that governs all of us.

IMPORTANCE OF THE RULE OF LAW

More so than any other nation on Earth, we are a nation first and foremost of law. We have no common national origin or ethnicity that now forms our shared identity as Americans. Instead, our identity has been shaped by the rule of law and by our common experience that faithfulness to the law guarantees individual liberties, equality of opportunity and a functioning society. As constitutional partners, we all are given the task of protecting the long-standing rule of law. Its roots date back at least to the Magna Carta – some 800 years ago. In our state constitution, the people repeat the Magna Carta's command that "justice shall be administered without sale, denial or delay." Our partnership preserves certain long-standing principles of the rule of law that set us apart from the many societies where the people yearn to overcome the rule of "might makes right" or that perversion of the golden rule that "he who has the gold makes the rules."

Each of us may, from our varying perspectives and decidedly different constitutional roles, have a different view of what exactly the "rule of law" means. You in the General Assembly are commissioned broadly to carry out the preferences of your constituents – the majority of those who elected you. At times you may ask yourselves the age-old question: Am I elected merely to follow the will of my constituents, or do I use my own best judgment to achieve the welfare of all the people? Courts, by contrast, work from texts – the words of the constitution, the commonlaw precepts expressed in judicial decisions, and the words that you write in statutes and that executive agencies write in regulations. We in the judicial branch labor over these words, and we strive to be faithful to their meaning.

The courts' work is dedicated to the application and enforcement of the constitution and laws. The vast majority of our work involves the lives of ordinary citizens. Very little of what our courts do makes news: the thousands of cases where businesses, large and small, enforce their contracts; where marital disputes are resolved; where property is conveyed; where wealth is transmitted through probate; where children, victims of domestic violence and other vulnerable people are protected; and where those accused of crime are tried.

Courts provide stable and rational resolution of disputes, protect property and economic interests, and, when needed, protect people from the overreaching of government. Courts cannot make everyone happy, but I do hope that the litigants and the public will respect the integrity of our processes and of our decision-makers, both judges and juries.

The courts' challenge is to be fair and impartial, professionally competent and prompt. We can do so only with your help and your support and our citizens' belief that the rule of law protects all of us even when we might disagree with particular decisions.

IDEALS OF EFFECTIVE COURTS

The rule of law is simple in theory, yet how can we maintain it in practice? One way is to compare ourselves to those nations in the process of creating a functioning rule of law. Many countries do not have a strong tradition embodying the rule of law and still resolve their disputes in the streets. People in these countries often look to the United States of America as a model, for they respect the integrity of our courts and the constitutional processes as they watch cases unfold here.

American lawyers and judges, at the request of our federal government, offer guidance to many countries about how to establish effective judiciaries. Under the auspices of the U.S. Agency for International Development, American lawyers and the National Center for State Courts have helped implement rule-of-law programs in former Eastern bloc countries and in developing nations around the world. While we in America occasionally complain about the outcomes of particular cases, it is that process of peaceably resolving disputes that is one of our greatest exports and surely one of our most lasting legacies to the world. This simple concept of a rule of law – grounded in our constitutions, fashioned in our legislatures, administered by an executive branch and enforced in the courts – ensures civic order rather than civic chaos.

The rule of law is the foundation of a democratic government, of a strong economic system and of civic order. The rule of law ensures, in Lincoln's words, government of the people, by the people and for the people. What do we tell the world are the criteria for courts under a rule of law? There are three key measures: independence, accountability and adequate resources. By examining how independent, accountable and adequately supported a nation's judiciary is, one can determine if that nation adheres to the rule of law or is still suffering from tyranny, lawlessness and corruption. By looking to a nation's respect for the rule of law we can discern the integrity of its governmental process, the progress of civil society, and the robustness and stability of its economic development.

JUDICIAL PRINCIPLES APPLIED TO MISSOURI

So let us ask: how does our Missouri Judiciary stack up to the same three measures – independence, accountability and resources? What really is the "State of the Judiciary" in our great state?

To answer these questions, we must first understand what these terms – independence, accountability and resources – mean. I will touch briefly on the first two, which my predecessors have discussed with you in recent years, and then spend a bit more time on the third.

"Independence," quite frankly, is both overused and misunderstood. It should not be interpreted, either by the public or by any judge, to mean that a judge is free to do as he or she sees fit. Such behavior runs counter to our oaths to uphold the law, and any attempt to put personal beliefs ahead of the law undercuts the effectiveness of the Judiciary as a whole. Better stated, "independence" refers to the need for courts that are fair and impartial when reviewing cases and rendering decisions. By necessity, it also requires freedom from undue outside influence or political intimidation, both in considering cases and in seeking the office of judge. Courts are not established to follow opinion polls or to try to discern the will of the people at any given time but rather are to uphold the law.

The people rely on courts to protect their access to justice and to protect their legal rights. For the sake of the people, then, judicial independence must always be coupled with the second stated measure – accountability.

In recent months we have seen two men nominated to the Supreme Court of the United States face intense questioning of their views by members of the United States Senate. I believe these hearings offered an important lesson about the difference between judges and the legislators who questioned them.

The important lesson taught by Chief Justice John Roberts Jr. and Judge Samuel Alito is that they resisted demands to take positions on particular controversies that might come before the Court. They, in effect, refused to make campaign promises. Campaign promises are inconsistent with judging. After all, you don't want a referee in a football

game to announce which side he will penalize before the game begins! If judges are to be faithful to the law, they must be prepared to consider written and oral arguments with an open mind. And this open-mindedness is what we ask of our fellow citizens – and you – who serve as jurors in courtrooms throughout this state – to not pre-judge the outcome before they can consider all the evidence and arguments. Judges as well as jurors must make decisions that are faithful to the law, regardless of the will of the people and even where, on occasion, they personally might prefer to decide otherwise. That is the essence of judging, and it is quite unlike the legislative role.

In our state, judicial accountability occurs on two broad levels. First, just like you, we are accountable to our fellow citizens through the election and retention systems. Unlike federal judges, who enjoy lifetime tenure, judges in Missouri have a direct connection to the voters. The people of Missouri have crafted a system that balances independence and accountability. In smaller counties, where voters can get to know their judicial candidates, there are elections. In some urban trial courts and the appellate courts, judges are selected under the nonpartisan court plan and periodically face the voters in retention elections. This system balances various competing interests and avoids the problems seen in other states where the integrity of the judicial process, even at the highest levels, increasingly has been brought into question.

Many of us who spend time in the eastern part of our state could not avoid seeing on television the kind of election that can result when millions of dollars are raised and spent on a judicial campaign. In the 2004 race for one district seat on the Illinois Supreme Court, most of the money spent was assuredly special interest money – business interests on the one side, trial lawyers on the other side – with charges and counter-charges that detracted seriously from the public's trust and confidence in the integrity and the impartiality of the judiciary. Missouri's system keeps courts accountable to the people while avoiding the kinds of campaigns that can diminish respect for judicial office.

Second, judges in Missouri are, above all, accountable to the law and the constitution through our sworn oaths. We are also accountable through the judicial disciplinary system established by our constitution. For nonpartisan judges subject to retention, The Missouri Bar is seeking to improve accountability by giving voters better evaluations of judicial performance. This fall, voters in some areas will have available to them not only the traditional evaluations by lawyers who are acquainted with the judges' work but also evaluations by jurors of the judges who preside over the cases on which they serve.

Citizens view the courts as an important part of democracy that provides essential balance in our form of government. As a result, we conduct the courts' business as openly as possible consistent with the rights of individuals. We strive for predictability of outcomes for those who seek judgments in our courts as enshrined in the principle of stare decisis, constant professionalism, and fundamental fairness of procedure. The citizens of this great state expect – and deserve – no less.

FUNDING AN EFFICIENT AND PROFESSIONAL JUDICIARY

To ensure that Missouri's courts can give the level of performance required by these principles, we must have sufficient resources. On this third measure – resources – we are most reliant on our constitutional partners – both in the General Assembly and the executive branch. We rely on you to provide a budget that is sufficient to allow us to fulfill our constitutional responsibilities.

We share your hope that we are now emerging from the difficult fiscal times that have been so challenging for the past five years. During this time, we have tried to manage our resources well. Today, the judicial branch receives about 1.6 percent of the state's budget – less than the percentage of the state's budget that we received 20 years ago. During that same period, however, our responsibilities have increased; for instance, juvenile officers have been added to our budget to relieve county governments of some of the burden of supporting local courts. In the past 10 years, as our workforce has decreased, our trial court case filings have increased 23 percent, largely in civil cases involving breach of contract claims filed by businesses, landlord-tenant disputes and domestic relations. The other major area of increase was in felony criminal cases, due largely to new drug laws.

In light of these facts, it is clear that maintaining effective courts requires a renewed commitment of financial resources to the Missouri Judiciary. The amounts we need are quite small in comparison to the overall state budget, but they are essential. When you and your constituents visit the courthouses in your district, you see the effects that our recent budget restrictions have had on our deputy clerks, who are the frontline personnel and the true face of our court

system. Turnover in their ranks has reached an alarming rate, particularly in urban and suburban areas where the annual turnover rate is as high as 17 percent. Even in rural areas, where salaries are still more competitive, we experience significant turnover. Throughout the state – in both rural and urban courts – we have seen an actual decrease in the worth of salaries as wages fail to keep pace with the cost of living. Through these tough times, the many good people who have remained in our system despite layoffs and a lack of increasing salaries – like a lot of others in public service – have soldiered on.

We continue to improve court technology, consolidate local court functions and make other efforts to be efficient. But we need to retain our well-trained clerk staff, which we increasingly are unable to do. Often, after developing their skills and becoming proficient in working in the court system, they are marketable and move on to higher paying jobs with their new skills. While we can never stop some flow of workers out of public service, we hope that adopting the Governor's proposed 4-percent cost-of-living increase will assist us in retaining many of these frontline employees who are so important to the effectiveness of the Judiciary.

We appreciate your support, and the Governor's recent proposed increase, for our drug courts, which now operate in 35 of our 45 judicial circuits. It is in the interests of all of us, and the communities that we serve, to work together on measures such as drug courts and the sentencing advisory commission that can prevent repeat offenses so that our most expensive correctional resources – prisons – are reserved for violent offenders.

There is, of course, one other group on whom the budgetary constraints of recent years are taking a toll: our state's judges, who now face their sixth year without any pay increase or cost-of-living adjustment. The state of judicial salaries is having a negative impact on our ability to attract the state's best lawyers to judicial service to provide the best service to our citizens – and your constituents. I realize it may seem politically unpopular to some of you to consider a pay increase or cost-of-living adjustment for public servants who are paid better than most state employees. None of us, however, has the power to repeal the economic laws of the marketplace. Consider for a moment a few facts:

There now are Missouri attorneys fresh out of law school who are paid more in their very first legal jobs than some state trial judges before whom they may appear. For Missouri lawyers older than 36 years of age, the average salary is as much as one and a half times that of a state Supreme Court judge. While our state has attracted and retained – through increased compensation – many fine state-paid law professors, university administrators and other similarly talented public sector professionals, we have seen the opposite in the Judiciary. In recent years, some of our best jurists – including some from the Supreme Court – have moved on to much more lucrative jobs in the private sector, and the number of lawyers applying for judicial vacancies has decreased substantially. I appreciate the fact that many in this great chamber make substantial financial sacrifices to serve here. Judges do so as well, but they also give up the opportunity for any supplement to their state salaries through the practice of law for which they are trained.

We all know that the calling to public service involves financial sacrifice. As with our clerk staff, we will never completely stop talented people from leaving public service. But when the gap between the private sector and public service gets too large, good people will not sacrifice their families' financial interests to answer the call. My greatest fear is that we will lose the ability to attract enough of the state's finest lawyers to public service in the Judiciary.

I have one other request affecting the judicial branch that I make sincerely and respectfully: Let us consider the needs of the Judiciary and the state as a whole when evaluating local requests for additional resources. We in the judicial branch are aided in developing a statewide approach for the allocation of resources by judges from around the state who serve on our circuit court budget committee. I know that some of you have ideas for improving the use of our resources even beyond the efforts that we have made to assign judges to areas of critical need and to enlist the good work of senior judges in meeting those needs. We stand ready and willing to work with you, as constitutional partners, to improve the rational allocation of our resources.

OTHER PARTNERSHIPS THAT HELP THE STATE

Judicial effectiveness clearly does not rest on financial resources alone, nor is it solely the product of courts' efforts. It relies heavily on how we work with our other partners in this system of justice: law enforcement officers, prosecutors, public defenders and other attorneys. Members of The Missouri Bar contribute greatly to the cause of justice, not only as officers of the court but also through their volunteer efforts as pro bono attorneys, as members of Bar committees, and in other types of public service and civic leadership.

The public service of our law enforcement community is sometimes heroic and well known, but it is in their everyday efforts that they serve as frontline defenders of the rule of law. We continue to seek ways in which we can better cooperate and communicate with law enforcement, particularly through our ongoing commitment to court technology. The demands of recent legislation such as the sex offender registry, as well as the impending federal mandate to communicate commercial driver license revocations to other states, require us to be administrative partners in new and innovative ways with law enforcement. We seek your cooperation and support in these important efforts.

Likewise, we look to both prosecutors and public defenders on matters of mutual importance to the administration of justice. In this current session, we in the judicial branch pledge to work with these groups toward resolving some of the issues relating to administration of trials and other matters of mutual interest. We further pledge to work with the public defender system in whatever way possible toward the attraction and retention of employees and toward the alleviation of its ever-increasing caseload. When I spoke earlier of the challenge of attracting and retaining good public servants, those words echo all too loudly in light of the crisis facing our public defender system. Often the test of a system of justice is not how it treats our best citizens, but how it treats those who appear to be our worst. No system of justice can be effective without adequate legal representation for criminal defendants. It is in the interests of all of us – even if it were not a constitutional requirement – that those whom the state deprives of liberty or life are guilty in fact and law of the crimes they are charged with committing. This goes to the legitimacy of the rule of law.

THE RULE OF LAW: A LIVING PRINCIPLE

So, are we there yet? Can Missouri be said to have a fully independent, accountable and adequately supported Judiciary? Well, we may not be there yet, but we know the way.

A recent national survey shows that most Americans want strong courts that will protect their individual rights, that will offer equal access to justice for all people, that are accountable to the constitution and the law, and that are free from the influence of politicians and special interest groups. If we are to be responsive to those ideals and to the values of our citizens – fundamental principles of this nation – then it is most important to strive for these goals above all else. The ideals and values of the people are not expressed only in surveys. They are in our souls as Americans. From the beginning of the American Revolution, our people have understood the consequences of failing to have a judicial branch that is independent, accountable and adequately supported. The signers of the Declaration of Independence certainly understood what oppression could be inflicted by those in power when those values are ignored. The signers understood that it was necessary to have a stable justice system to protect the people from tyranny. We all remember “Life, Liberty, and the Pursuit of Happiness” enshrined in the Declaration of Independence. But consider, to be specific, some of the grievances in the Declaration against King George III, who deprived us “in many cases, of the benefits of trial by jury” and transported us “beyond seas, to be tried for pretended offenses. ... [H]e has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.”

As Americans in the 21st century, we intuitively value the checks and balances that are the hallmarks of our democratic republic, the protection of the rights of individuals, and the fundamental sense of fairness embodied in what the constitution calls due process of law. Our ideals and our goals are worthy of our constant efforts, individually and with you, our constitutional partners.

Today, in Missouri, we are responsible for administering justice in the highest sense of which we are capable ... to be fair and impartial; to be free of undue influence; to be accountable to the law and not to the popular will; and to be effective and consistent in the exercise of proper judgment.

We pray that we are up to the challenge of providing a forum where the people peaceably can resolve their disputes and their legitimate constitutional grievances against their government. It is a challenge that we approach humbly and in full recognition of the limitations of the judicial role.

I offer you our cooperation, and I ask for your support as we continue our ongoing, mutual pursuit of a Judiciary that lives up to the ideals expressed in our state’s motto. Thank you very much.

The Joint Session was dissolved by Senator Shields.

Speaker Jetton resumed the Chair.

RE-REFERRAL OF HOUSE BILL

The following House Bill was re-referred to the Committee indicated:

HB 1036 - Higher Education

COMMITTEE REPORTS

Committee on Rules, Chairman Cooper (120) reporting:

Mr. Speaker: Your Committee on Rules, to which was referred **HR 15**, begs leave to report it has examined the same and recommends that it **Do Pass**.

HOUSE RESOLUTION NO. 15

WHEREAS, the General Assembly of the State of Missouri has a long tradition of rendering assistance to worthwhile youth activities, especially those related to governmental or citizenship projects; and

WHEREAS, the Girl Scouts - Heart of Missouri Council has sought to instill values of high integrity within our youth; and

WHEREAS, the General Assembly has maintained a policy of granting such organizations permission to use the House Chamber for beneficial purposes:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri House of Representatives, Ninety-second General Assembly, hereby grant the Girl Scouts - Heart of Missouri Council permission to use the House Chamber for the Silver and Gold Award Ceremony for their Cadette and Senior Girl Scouts on Sunday, June 4, 2006, from 9:00 a.m. until 4:00 p.m.

Mr. Speaker: Your Committee on Rules, to which was referred **HR 68**, begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Rules, to which was referred **HR 108**, begs leave to report it has examined the same and recommends that it **Do Pass**.

HOUSE RESOLUTION NO. 108

WHEREAS, the General Assembly of the State of Missouri has a long tradition of rendering assistance to worthwhile youth activities, especially those related to governmental or citizenship projects; and

WHEREAS, the Jefferson City Downtown Rotary Club has sought to instill values of high integrity within our youth and to provide an opportunity for Missouri students to experience state government firsthand; and

WHEREAS, the General Assembly has maintained a policy of granting such organizations permission to use the House Chamber for beneficial purposes; and

WHEREAS, this year, the Jefferson City Downtown Rotary Club is sponsoring its annual Student Government Day, an event which will be highlighted by a meeting in the House Chamber of our State Capitol where students in attendance will be addressed by a representative of each of the three branches of government:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri House of Representatives, Ninety-third General Assembly, hereby grant the Jefferson City Downtown Rotary Club permission to use the House Chamber for the purpose of conducting its Student Government Day on Monday, March 20, 2006, from 9:00 a.m. until 11:30 a.m.

Mr. Speaker: Your Committee on Rules, to which was referred **HCR 5**, begs leave to report it has examined the same and recommends that it **Do Pass**.

HOUSE CONCURRENT RESOLUTION NO. 5

WHEREAS, President Ronald Wilson Reagan, a man of humble background, worked throughout his life serving freedom and advancing the public good, having been employed as an entertainer, Union leader, corporate spokesman, Governor of California, and President of the United States; and

WHEREAS, Ronald Reagan served with honor and distinction for two terms as the 40th President of the United States of America, the second of which he earned the confidence of 60% of the electorate and was victorious in 49 of the 50 states in the general election - a record unsurpassed in the history of American presidential elections; and

WHEREAS, in 1981, when Ronald Reagan was inaugurated President, he inherited a disillusioned nation shackled by rampant inflation and high unemployment; and

WHEREAS, during Mr. Reagan's presidency, he worked in a bipartisan manner to enact his bold agenda of restoring accountability and common sense to government which led to an unprecedented economic expansion and opportunity for millions of Americans; and

WHEREAS, Mr Reagan's commitment to an active social policy agenda for the nation's children helped lower crime and drug use in our neighborhoods; and

WHEREAS, President Reagan's commitment to our armed forces contributed to the restoration of pride in America, her values and those cherished by the free world, and prepared America's Armed Forces to meet 21st Century challenges; and

WHEREAS, President Reagan's vision of "peace through strength" led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people; and

WHEREAS, February 6th is the birthday of Ronald Reagan:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session, the Senate concurring therein, hereby declare February 6th of each year to be "Ronald Reagan Day" in Missouri and urge all citizens of Missouri to recognize this event and participate fittingly in its observance; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Mr. Speaker: Your Committee on Rules, to which was referred **HCR 6**, begs leave to report it has examined the same and recommends that it **Do Pass**.

HOUSE CONCURRENT RESOLUTION NO. 6

WHEREAS, the current government of Vietnam is a nondemocratic, one-party system of government without rule of law that arbitrarily infringes upon the basic human and civil liberties of its citizens; and

WHEREAS, Vietnamese-Americans were forced to flee Vietnam in fear of the government of Vietnam's campaign of retribution and persecution after the fall of Saigon in 1975; and

WHEREAS, the State of Missouri is home to 20,000 Vietnamese-Americans and residents of Vietnamese descent who have made substantial contributions to the cultural, religious, business, and commerce of the State of Missouri; and

WHEREAS, the vast majority of Vietnamese-Americans embrace the yellow with three red stripes heritage and freedom flag as the official symbol of the Vietnamese-American community; and

WHEREAS, dating back to 1948, the yellow flag with three red stripes has a long history in Vietnam and is a broader symbol of resilience, freedom, and democracy of and for Vietnamese-Americans and free Vietnamese around the world; and

WHEREAS, Vietnamese-Americans have shown their desire that the yellow flag with three red stripes be recognized as the official flag of the Vietnamese-American community:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session, the Senate concurring therein, hereby urge the State of Missouri to formally recognize the yellow with three red stripes heritage and freedom flag as the official flag of the Vietnamese-American community in this state, and permit this flag to be displayed on any state-owned property, at any state-controlled or sponsored Vietnamese-American event, or at any public function organized by the Vietnamese-American community, subject to the permit requirements of the event's locality; and

BE IT FURTHER RESOLVED that the Missouri General Assembly encourages county officials and city legislators in the State of Missouri to pass resolutions recognizing the yellow with three red stripes heritage and freedom flag as the official flag of the Vietnamese-American community.

Mr. Speaker: Your Committee on Rules, to which was referred **HCR 9**, begs leave to report it has examined the same and recommends that it **Do Pass**.

HOUSE CONCURRENT RESOLUTION NO. 9

WHEREAS, following breast cancer, cervical cancer is the second most common cancer in women worldwide after breast cancer; and

WHEREAS, according to United States cervical cancer statistics, the disease is the third most common gynecological cancer among American women. With approximately 12,200 new cases diagnosed annually, 4,100 of these cases result in death; and

WHEREAS, with regular and accurate screening, cervical cancer is highly preventable with regular and accurate screening; and

WHEREAS, widespread screening programs have helped reduce death rates from cervical cancer, but women are still dying even with such advanced medical techniques and evaluative procedures; and

WHEREAS, cervical cancer cases in the United States are generally attributed to lack of education, a reduction of access available to regular cervical cancer screening, and a lack of screening accuracy; and

WHEREAS, experience shows that increasing cervical cancer awareness among women, especially under served women within our state, significantly reduces the probability of mortality; and

WHEREAS, cervical cancer disproportionately affects minority women and women with lower incomes because they are less likely to have access to routine screening; and

WHEREAS, approximately one-half of all cervical cancer cases are in women who have never been screened, and ten percent of cases are in women who have not been screened within the last five years; and

WHEREAS, the median age of cervical cancer patients at diagnosis is 47 years, the youngest median age for all female reproductive cancers; and

WHEREAS, new screening technologies, including FDA-approved testing for human papillomavirus, which is the cause of virtually all cervical cancers, offer new opportunities to finally eliminate this potentially deadly disease through early identification of women at increased risk; and

WHEREAS, leading medical organizations, including the American College of Obstetricians and Gynecologists, the American Cancer Society, and the Association of Reproductive Health Professionals have recently updated their screening guidelines to include FDA-approved testing for human papillomavirus; and

WHEREAS, women are entitled to proper cervical cancer information so they can be empowered to make informed health care decisions, and are entitled to access to routine screening, including the most accurate methods available:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session, the Senate concurring therein, hereby recognize that through education and screening women can lower their likelihood for developing cervical cancer, and that through early detection cervical cancer can be successfully treated after it develops; and

BE IT FURTHER RESOLVED that the Missouri General Assembly supported the Missouri Department of Health and Senior Services and the Missouri Cancer Consortium in taking the lead in formulating the Comprehensive Cancer Action Plan for Missouri, including the review of data regarding cervical cancer and human papillomavirus of women in Missouri, evaluating current methods used to provide women with information regarding cervical cancer, access to regular screening, and options for increasing screening accuracy; and

BE IT FURTHER RESOLVED that the Missouri General Assembly supports the Missouri Department of Health and Senior Services and the Missouri Cancer Consortium in the identification of pockets of need, priority strategies, and new technologies, including new introduced therapies and preventive vaccines which are effective in preventing and controlling cervical cancer; and

BE IT FURTHER RESOLVED that the Missouri General Assembly directs that the Comprehensive Cancer Action Plan for Missouri, which serves as a nationwide model of effective cancer control strategies, be presented annually to the Governor, Lieutenant Governor, President Pro Tem of the Senate, the Speaker of the House of Representatives, and be posted on the Missouri state web site homepage; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for Governor Matt Blunt, Lieutenant Governor Peter Kinder, the Director of the Department of Health and Senior Services, and the Missouri Cancer Consortium.

INTRODUCTION OF HOUSE BILLS

The following House Bills were read the first time and copies ordered printed:

HB 1514, introduced by Representatives Johnson (47) and Smith (118), relating to local political subdivisions.

HB 1515, introduced by Representative Behnen, relating to collaborative practice.

HB 1516, introduced by Representative Behnen, relating to failure to yield to an emergency vehicle.

HB 1517, introduced by Representative Behnen, relating to the board of pharmacy.

HB 1518, introduced by Representatives Johnson (61), Jolly and Oxford, relating to orders of protection.

HB 1519, introduced by Representatives Johnson (61), Baker (25), Oxford, Brown (50) and El-Amin, relating to postconviction DNA testing.

HB 1520, introduced by Representatives Wright-Jones, Johnson (47), Denison, Baker (25), Chappelle-Nadal, Bowman, Daus, Bean, Parker, Storch, Lampe, Brown (50), Darrough, Oxford, Zweifel, Corcoran, Fraser, Haywood, Wildberger, Bland, Bogetto, Page, LeVota, Lowe (44), Hughes, Johnson (90), Curls, Low (39), Donnelly, Boykins, Sanders Brooks, Hoskins, Vogt, Johnson (61), Walton, El-Amin and Harris (23), relating to reducing the number of abortions in the state through the prevention first act.

HB 1521, introduced by Representatives Richard, Pearce, Kratky, Bowman, Day, Sater, Deeken, Hobbs, Pollock, Dusenberg, Stevenson, Storch, Page, Muschany, Weter, Smith (14), Moore, Roorda, May, Ervin, Spreng, Wilson (119), McGhee, Bruns, Corcoran, Wildberger, Sutherland, Schneider, Chappelle-Nadal, Sander, Flook and Avery, relating to the Missouri business use incentive for large-scale development act.

HB 1522, introduced by Representatives Sander, Cunningham (86) and Moore, relating to high school diplomas.

HB 1523, introduced by Representative Cunningham (145), relating to motor fuel tax.

HB 1524, introduced by Representatives Lampe, Jetton, Marsh, Walsh, Meiners, Page, Meadows, Yaeger, Rucker, Bowman, Curls, Bogetto, Whorton, Harris (110), Oxford, Wildberger, Brown (50), Darrough, Salva, Zweifel, Villa, Page, Dougherty, Robinson, George, Wright-Jones, Lowe (44), Baker (25), Harris (23), Witte, Donnelly, Schoemehl, LeVota, Bland, Daus, Curls, Skaggs, Roorda, Kratky, Haywood, Burnett, Storch, Hughes, Aull, Casey, Young, Johnson (90), Johnson (61), Low (39), El-Amin, Corcoran, Hubbard, Kuessner, Wagner, Fraser, Liese, Dempsey, Cooper (120), Swinger, Wright (159), Fisher, Weter, Robb, Sutherland, Henke, Hoskins, Spreng, Walton, Parson, McGhee and Chappelle-Nadal, relating to corporations.

HB 1525, introduced by Representatives Wilson (119), Loehner, Schad, Wallace, Fisher, Stevenson, Smith (150), Chinn, Wilson (130), Franz, Threlkeld, Brown (30), Ruestman, Dethrow, Jones, Bruns, Self, Viebrock, Wood, Nolte, Kelly, Moore, Cunningham (145), Pollock, Wells, Smith (118), McGhee, Hunter, Cooper (120), Wright (137), Hobbs, Sater, Dusenberg, Yates, Parson, Dixon, Robb, Weter, Munzlinger, Schlottach and Deeken, relating to county treasurers.

HB 1526, introduced by Representative Storch, relating to members of the general assembly.

HB 1527, introduced by Representative Storch, relating to crime of bribery of a public servant.

HB 1528, introduced by Representative Storch, relating to lobbyists.

HB 1529, introduced by Representative Storch, relating to the use of private airplanes by certain elected officials.

HB 1530, introduced by Representative Storch, relating to duties of the attorney general.

HB 1531, introduced by Representatives Skaggs, Burnett, LeVota, Johnson (90), Zweifel, Darrough and Hughes, relating to commercial solicitations.

HB 1532, introduced by Representatives Lembke, Jetton, Bearden, Dempsey, St. Onge, Bivins, Portwood, Avery, Hubbard, Stevenson, Davis, Fares, Muschany, Icet, Nieves, Threlkeld, Sutherland, Cunningham (86), Richard, Hunter, Faith, Sater, Storch, Yaeger, Wood, Corcoran, George, Moore, Smith (14), Page, Walton, Villa, Schneider and Vogt, relating to the state emissions inspection program.

HB 1533, introduced by Representatives Lembke, Portwood, Avery, Harris (110), Sater, Wells, Cunningham (86), Meadows, Roark, McGhee, Whorton, Brown (50), Sutherland, Cooper (155), Emery, Ervin, Nieves, Stevenson, Spreng, Rucker, Schad and Jones, relating to eminent domain.

HB 1534, introduced by Representatives Lembke, Jetton, Bivins, Bearden, Dixon, Portwood, Cooper (155), Nieves, Emery, Self, Dempsey, Fisher, Phillips, Harris (110), Kraus, Roorda, Stevenson, Cunningham (86), Moore, Rector, Smith (118), McGhee, Baker (123), Davis, Whorton, Yaeger, Schad, Jones, Loehner, Sander, Muschany, Wagner, Casey, Avery, Lipke, Icet, Ervin and Sander, relating to funding for the life sciences research trust fund.

HB 1535, introduced by Representatives Emery, Guest, Lampe and McGhee, relating to public utility equipment.

HB 1536, introduced by Representatives Schaaf and Hubbard, relating to lead abatement and prevention of lead poisoning.

HB 1537, introduced by Representatives Schaaf, Denison, Page, Dougherty, Salva, Hunter and Tilley, relating to certificate of need.

HB 1538, introduced by Representatives Yates, Moore, Bivins, Wasson, Johnson (47), Dusenberg, Avery, Wildberger and Page, relating to the dental carve-out act of 2006.

HB 1539, introduced by Representatives Stevenson, Phillips, Fisher and McGhee, relating to the health care rights of conscience act.

HB 1540, introduced by Representatives St. Onge and Wright-Jones, relating to motor fuel tax exemptions.

HB 1541, introduced by Representatives St. Onge, Yaeger, Wood, Page, Meadows, Swinger and Wagner, relating to the graduated driver's licensing system.

HB 1542, introduced by Representatives Salva, Wildberger, Johnson (47) and Deeken, relating to the Missouri ethics commission.

HB 1543, introduced by Representatives Salva, Wildberger and Deeken, relating to public employees.

HB 1544, introduced by Representatives Swinger, Witte, Aull, Kuessner, Wright (159) and Roorda, relating to school funding for summer school.

HB 1545, introduced by Representative Dixon, relating to audiology.

COMMITTEE ASSIGNMENTS

SPECIAL COMMITTEE ON STUDENT ACHIEVEMENT AND FINANCE

Aull, Joe
Bogetto, Jane
Corcoran, Michael

SPECIAL COMMITTEE ON HEALTHCARE FACILITIES

Bland, Craig
Page, Sam
Skaggs, Trent
Swinger, Terry

SPECIAL COMMITTEE ON ENERGY AND ENVIRONMENT

Lowe, Jenee
Oxford, Jeanette
Rucker, Martin
Bowman, John

SPECIAL COMMITTEE ON AGRI-BUSINESS

Harris, Belinda
Whorton, Jim
Witte, Terry
Wright-Jones, Robin

COMMITTEE CHANGES

The Speaker submitted the following Committee changes:

Representative Baker (25) is no longer a member of the Appropriations-Education Committee and has been appointed a member of the Appropriations-Health, Mental Health and Social Services Committee.

Representative Bogetto has been appointed a member of the Health Care Policy Committee, and the Small Business Committee.

Representative Lampe has been appointed a member of the Tourism Committee.

Representative Low (39) has been appointed a member of the Elections Committee.

Representative Page is no longer a member of the Appropriations-Health, Mental Health and Social Services Committee, and has been appointed a member of the Appropriations-Education Committee.

Representative Vogt has been appointed a member of the Appropriations-General Administration Committee.

Representative Wright-Jones is no longer a member of the Small Business Committee, and has been appointed a member of the Agriculture Policy Committee.

WITHDRAWAL OF HOUSE BILLS

January 24, 2006

Stephen S. Davis, Chief Clerk
Missouri House of Representatives
Room 306C, State Capitol
Jefferson City, MO 65101

Dear Mr. Davis:

I respectfully request the withdrawal of **House Bill No. 1084**. Thank you for your consideration in this matter.

Sincerely,

/s/ Darrell Pollock
State Representative
District 146

TO: Steve Davis, Chief Clerk of the House of Representatives

FROM: Representative Michael G. Corcoran, District 77

DATE: January 25, 2006

SUBJECT: Withdrawal of House Bill No. 1463

I wish to withdraw **House Bill No. 1463**, relating to health care payroll assessments. I am in the process of making some changes and I will be re-filing this bill at a later date.

The following member's presence was noted: Hobbs.

ADJOURNMENT

On motion of Representative Dempsey, the House adjourned until 10:00 a.m., Thursday, January 26, 2006.

COMMITTEE MEETINGS

APPROPRIATIONS - EDUCATION

Monday, January 30, 2006, 10:30 a.m. Hearing Room 1.
Presentation of the Governor's recommendations for the
Department of Elementary and Secondary Education.

APPROPRIATIONS - PUBLIC SAFETY AND CORRECTIONS

Tuesday, January 31, 2006, 8:00 a.m. Hearing Room 6.
Budget presentation for the Department of Corrections.

APPROPRIATIONS - PUBLIC SAFETY AND CORRECTIONS

Tuesday, January 31, 2006, 2:45 p.m. Hearing Room 6.
The Department of Corrections will finish their budget presentation and
the Department of Public Safety will begin their budget presentation.

INSURANCE POLICY

Thursday, January 26, 2006, Side Gallery upon morning adjournment.
Executive session.
Executive session will be held on: HB 1155

LOCAL GOVERNMENT

Thursday, January 26, 2006, 8:00 a.m. Hearing Room 6.

Work session on HB 1070 to follow.

Public hearings to be held on: HB 1033, HB 1119, HB 1030

HOUSE CALENDAR

THIRTEENTH DAY, THURSDAY, JANUARY 26, 2006

HOUSE BILLS FOR SECOND READING

HB 1514 through HB 1545